Repealed Or 1- 5 1980

ORDINANCE NUMBER 18

SERIES 1974

AN ORDINANCE FOR THE IMPOUNDING AND DISPOSITION OF ABANDONED VEHICLES; REPEALING ORDINANCE NO. 3, SERIES 1956; AND DECLARING AN EMERGENCY.

THE CITY OF ELGIN DOES ORDAIN as follows:

Section 1: DEFINITIONS.

(1) Abandoned. Left unoccupied and unclaimed or in a damaged or dismantled condition upon the streets or alleys of the City.

(2) Chief of Police. Any authorized law enforcement officer of the City.

(3) Costs. The expense of removing, storing and selling an impounded vehicle.

(4) Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(5) Vehicle Owner. Any individual, firm, corporation or unincorporated association with a claim, either individually or jointly, of ownership or any interest, legal or equitable, in a vehicle.

Section 2: NOTICE OF NUISANCE.

(1) It shall be the duty of the police department, whenever a vehicle is found abandoned upon the streets or alleys in the same position for a period of 48 hours, to:

(a) Make a routine investigation to discover the owner and request removal of the vehicle; or

(b) Failing to discover the owner by such a process, to make a diligent inquiry as to the name and address of the owner of the vehicle by examining such vehicle for license number, I. D. number, make, style, and any other information which will aid in the identification of the ownership of the vehicle, and transmitting all available information pertaining to such vehicle to the Motor Vehicles Division of this state with an inquiry for

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the name and address of the owner, whenever such vehicle is required by law to be registered with that office.

(c) If the owner is not identified, to place a notice upon the windshield, or some other part of the vehicle easily seen by the passing public.

(2) The notice shall state that the police department will remove and impound the vehicle under the provisions of this ordinance, 24 hours after the time of the posting, unless:

(a) The owner removes the vehicle; or

(b) Good cause is shown, satisfactory to the chief of police, why such vehicle should not be removed by the owner or removed and impounded by the city.

Section 3: IMPOUNDING NUISANCE.

(1) An abandoned vehicle which remains in the same position for a period of 24 hours after an owner has been requested to remove it or after a notice to remove has been posted upon the vehicle, and no person has appeared to show good cause why the vehicle should not be moved, shall constitute a nuisance.

(2) It shall be the duty of the police department to remove a vehicle which shall constitute a nuisance under the provisions of this ordinance, store the vehicle upon city property, and dispose of it pursuant to the provisions of this ordinance.

(3) After impoundment, the chief of police shall cause the vehicle to be appraised.

Section 4: NOTICE OF IMPOUNDMENT AND SALE. If the owner is identified, he shall be notified immediately by registered or certified mail that such vehicle is held by the police department of the city. The notice to the owner shall also state:

(1) The reason for impounding the vehicle.

(2) The existing costs charged against the vehicle.

(3) That unless the owner redeems the vehicle within 10 days from the day of mailing the notice and pays all the costs, the vehicle

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will be sold.

Section 5: LOW VALUE VEHICLE.

(1) If the vehicle is appraised at $100.00 or less and the owner is identified, the chief of police shall file with the Motor Vehicles Division an affidavit describing the vehicle, including the license plates, if any, stating the location and appraised value of the vehicle, and stating that the vehicle will be junked or dismantled. The chief of police shall state that notice of intent to junk or dismantle the vehicle has been sent with notification of the location of the vehicle to the owner.

(2) Failure of the owner to reclaim the vehicle within 15 days after the date notification is mailed shall constitute a waiver of his interest in the vehicle.

(3) Upon completion and forwarding of the affidavit and expiration of the time period stated in Subsection (2), the chief of police may, without notice and public auction, dispose of the vehicle and execute a certificate of sale.

(4) The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. _____, entitled "An Ordinance for the Impounding and Disposition of Abandoned Vehicles," I did on the ____ day of _____, 19____, sell to _____ for the sum of $_____ cash, the following described personal property, to-wit:

(Brief description of the property)

And in consideration of the payment of the said sum of $_____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this ____ day of _____, 19____.

_____

NOTE: The City of Elgin assumes no responsibility as to the condition of title of the above described property. In case this sale shall for any reason be invalid, the liability of the city is limited to the return of the purchase price.

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Section 6: PUBLIC SALE NOTICE.

(1) If the vehicle is appraised over $100.00, and if no claim is made by the owner within the time specified by Section 4 (3) of this ordinance, or if the vehicle is valued under $100.00, but the owner cannot be identified after compliance with Section 2, the chief of police shall cause to be published in a newspaper of general circulation within the city a notice of sale. The notice of sale shall state:

(a) The sale is of abandoned property in the city's possession.

(b) A description of the vehicle, including the type, make, license number, I.D. number, and any other information which will aid in accurately identifying the vehicle.

(c) The terms of the sale.

(d) The date, time and place of the sale.

(2) The notice of sale shall be published twice not less than three days prior to the date of the proposed sale.

Section 7: PUBLIC SALE.

(1) If no claim shall have been made to redeem an impounded vehicle appraised over $100.00 or appraised under $100.00 but the owner cannot be identified before the time set for the sale of such vehicle, the chief of police shall hold a sale at the time and place appointed within the view of the vehicle to be sold.

(2) The vehicle shall be sold to the highest and best bidder; providing, that if no bids are entered or those bids which are entered are less than the costs incurred by the city, the chief of police may enter a bid on behalf of the city in an amount equal to such costs.

(3) At the time of payment of the purchase price, the chief of police shall execute a certificate of sale, in duplicate, the original of which shall be delivered to the purchaser, and the copy thereof filed with the city recorder.

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(4) The certificate of sale shall be substantially as follows:

CERTIFICATE OF SLAE

This is to certify that under the provisions of Ordinance No. ____, entitled "An Ordinance for the Impounding and Disposition of Abandoned Vehicles," and pursuant to due notice of the time and place of sale, I did on the ____ day of _____, 19____, sell at public auction to _____ for the sum of $_____ cash, he being the highest and best bidder, and that being the highest and best sum bid therefor, the following described personal property, to-wit:

(Brief description of the property)

And in consideration of the payment of said sum of $_____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this ____ day of _____, 1974.

_____

Note: The City of Elgin assumes no responsibility as to the condition of title of the above described property. In case this sale shall for any reason be invalid, the liability of the city is limited to the return of the purchase price.

Section 8: REDEMPTION BEFORE SALE.

(1) An owner may redeem a vehicle impounded under the provisions of this ordinance, before a sale or disposition has taken place, by applying to the police department, whereupon he shall:

(a) Submit evidence of his ownership or interest in the vehicle, satisfactory to the chief of police, that such claim is rightful; and

(b) Pay the costs due and owing at the time the application to redeem is made.

(2) Upon compliance with Subsection (1) of this section, the chief of police shall execute a receipt for the owner and cause the vehicle to be returned to him.

Section 9: SALE AND PROCEEDS.

(1) Upon a sale being consummated, the chief of police shall deliver the vehicle and the certificate of sale to the purchaser. The sale and conveyance shall be without redemption.

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(2) The proceeds of the sale shall be applied:

(a) To the payment of costs incurred by the city; and

(b) The balance, if any, shall be transferred to the city treasurer to be credited to the general fund.

Section 10: APPLICATION. This ordinance shall apply to all abandoned vehicles now in the possession of the city as well as to abandoned vehicles that are hereafter impounded.

Section 11: CHARGES. In the enforcement and execution of the provisions of this ordinance, the chief of police shall charge and collect $10.00 for towing and $2.00 per day for storage, unless a private garage is utilized, in which case the chief of police shall charge and collect the towing and storing charges actually incurred by the city for the vehicle.

Section 12: REPEAL. Ordinance No. 3, Series 1956, is hereby repealed.

Section 13: EMERGENCY. Inasmuch as it is essential to the preservation of the public health, welfare, peace and safety of the City of Elgin that this ordinance be effective immediately upon its enactment, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED and ADOPTED tis 12th day of November, 1974, by Six (6) Councilpersons voting therefor.

APPROVED this 12 day of November, 1974.

Warren L Stein
Mayor

ATTEST:

Roz Scrubey
City Recorder

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